

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 14-
 :
 v. : 12 U.S.C. § 378(a)(2) & (b)
 : 18 U.S.C. § 2
 MOSHE SCHWARTZ, : 26 U.S.C. § 7206(1)
 a/k/a David Schwartz, : 26 U.S.C. § 7206(2)
 a/k/a Gedalya David Schwartz :

I N F O R M A T I O N

The defendant having waived in open court prosecution by Indictment, the United States Attorney for the District of New Jersey charges:

COUNT ONE
(Unchartered Banking)

1. At all times relevant to Count One of this Information:
 - a. Defendant MOSHE SCHWARTZ, a/k/a David Schwartz, a/k/a Gedalya David Schwartz, was a resident of Union City, New Jersey, who owned and operated Schwartz Realty, a real estate management company located in Union City. Defendant MOSHE SCHWARTZ also operated, and was a client of, Gemach Shefa Chaim ("GSC").
 - b. GSC purported to be a charitable organization that operated out of defendant MOSHE SCHWARTZ's office and a synagogue located in Union City. GSC's stated purpose was to provide interest-free loans to needy members of the Sanz community in Union City. GSC was registered as a nonprofit corporation in the State

of New Jersey in or about February 2002. GSC was not registered as a 501(c)(3) corporation with, nor did it request exempt status from, the Internal Revenue Service (the "IRS"). However, as described below, GSC operated as an unchartered bank, accepting funds on deposit from clients and allowing clients to redeem their funds upon request. In fact, by in or about July 2009, GSC had accepted millions of dollars in deposits and had established over 350 GSC accounts.

c. To engage in a banking business in the United States, a bank is required to receive a charter from the United States or the state in which the bank operates. Chartered banks are subject to oversight, regulation and periodic review by federal and state authorities. Neither defendant MOSHE SCHWARTZ nor GSC received a charter to operate as a bank from the United States or the State of New Jersey. Neither defendant MOSHE SCHWARTZ nor GSC was incorporated under, authorized by, or permitted by the United States or the State of New Jersey to operate as a bank. GSC was not subjected by the laws of the United States or the State of New Jersey to examination and regulation. Nor did GSC submit to periodic examination by, or publish periodic reports of its condition with, the State of New Jersey.

2. At various times relevant to Count One of this Information, GSC, assisted by defendant MOSHE SCHWARTZ:

a. Accepted deposits from clients and credited the clients' accounts with the amount of the deposits, including

defendant MOSHE SCHWARTZ's own deposits;

b. Transferred funds between client accounts;

c. Cashed checks and, in return, provided clients with cash or checks written from GSC, including defendant MOSHE SCHWARTZ's own cashed checks;

d. Accepted and negotiated GSC checks that had been passed through others and were not being negotiated by the person or entity to whom the check had been written. That is, checks written from the GSC account were treated by others as negotiable instruments. Individuals therefore could at any point redeem GSC checks written to third parties;

e. Disbursed client funds upon request, either by cash or in checks written from GSC to entities or persons as directed by the client, including defendant MOSHE SCHWARTZ's own client funds;

f. Conducted wire transfers, including transfers to international bank accounts;

g. Provided clients with receipts detailing transactions and account balances;

h. Charged clients a fee of approximately \$29 for bounced checks and provided clients with returned check notices; and

i. Provided overdraft notices to clients upon withdrawals that exceeded client balances.

3. At various times relevant to Count One of this Information, to operate this unchartered banking business, defendant MOSHE SCHWARTZ opened and maintained various bank accounts at financial institutions in or around North Jersey in the name of GSC as a nonprofit corporation. Defendant MOSHE SCHWARTZ used those bank accounts to, among other things, deposit client funds, negotiate checks, provide clients with checks written from the GSC account, and conduct wire transfers. Because client funds were deposited into and commingled within GSC's bank accounts, the funds could only be traced back to GSC, thereby concealing the true ownership, nature and source of the funds. To keep track of client ownership, defendant MOSHE SCHWARTZ maintained client account records and, beginning in or about 2004, used a computer banking software program to record client transactions and maintain records of accounts.

4. At all times relevant to Count One of this Information, GSC clients retained ownership over the funds deposited into their GSC accounts and could at any time redeem the funds upon request. Many GSC clients used GSC as their personal bank checking account, depositing funds into their GSC accounts and at the same time receiving GSC checks written to pay personal expenses. Given the lack of regulatory controls and oversight, certain GSC clients were able to use their GSC accounts to engage in suspicious and, at times, illegal activities, including evading federal taxes and laundering the proceeds of illegal activities.

5. At various times relevant to Count One of this Information, defendant MOSHE SCHWARTZ used his own GSC account to conceal his own income and assets from the IRS. Particularly, defendant MOSHE SCHWARTZ deposited income that he had received from management fees and the sale of real estate into his GSC account and used those funds to, among other things, pay personal expenses. Between in or about November 2006 and in or about July 2009, defendant MOSHE SCHWARTZ deposited a total of almost \$1 million into his GSC account.

6. From in or about February 2002 through in or about July 2009, in the District of New Jersey, and elsewhere, defendant

MOSHE SCHWARTZ,
a/k/a David Schwartz, a/k/a Gedalya David Schwartz,

did knowingly and willfully engage, to any extent whatever with others than his and GSC's officers, agents and employees, in the business of receiving deposits subject to check and to repayment upon presentation of a pass book, certificate of deposit, and other evidence of debt, and upon request of the depositor, and defendant MOSHE SCHWARTZ and GSC (A) were not incorporated under, and authorized to engage in such business by, the laws of the United States and New Jersey, and subjected, by the laws of the United States and New Jersey, to examination and regulation, and (B) were not permitted by the United States and New Jersey to engage in such business and subjected by the laws of the United States and New Jersey

to examination and regulations, and (C) did not submit to periodic examination by the banking authority of New Jersey where such business was carried on and did not make and publish periodic reports of GSC's condition, exhibiting in detail its resources and liabilities.

In violation of Title 12, United States Code, Sections 378(a)(2) & (b), and Title 18, United States Code, Section 2.

COUNT TWO

(False Tax Return)

1. The allegations set forth in paragraphs 1(a), 1(b) and 5 of Count One of this Information are realleged and incorporated herein.

2. At various times relevant to Count Two of this Information, defendant MOSHE SCHWARTZ:

a. Provided false and fraudulent information concerning his income to a tax return preparer in Union City for tax year 2007; specifically, defendant MOSHE SCHWARTZ falsely represented that his total income for tax year 2007 was approximately \$24,475;

b. Caused the tax return preparer to underreport the amount of income that defendant MOSHE SCHWARTZ earned during tax year 2007, by failing to inform the tax return preparer that he had received additional income from management fees and agreeing with the tax preparer not to disclose additional income from the sale of real estate, resulting in true and correct total income of approximately \$208,845 for tax year 2007; and

c. Authorized the tax return preparer to electronically file the false and fraudulent 2007 U.S. individual income tax return, Form 1040, with the IRS.

3. In concealing his income from the IRS, defendant MOSHE SCHWARTZ deposited checks from management fees and the sale of real estate into his GSC account. Defendant MOSHE SCHWARTZ also

falsely used the identities of an individual named David Schwartz or Gedalya David Schwartz to conceal his income. In particular, beginning in at least 2001, defendant MOSHE SCHWARTZ used those identities to, for instance, buy and sell real estate, obtain a driver's license, open bank accounts, and obtain mortgages on various properties. Moreover, the proceeds from the sale of real estate were disbursed to defendant MOSHE SCHWARTZ in the name of David Schwartz.

4. On or about April 15, 2008, in the District of New Jersey and elsewhere, defendant

MOSHE SCHWARTZ,
a/k/a David Schwartz, a/k/a Gedalya David Schwartz,
did knowingly and willfully aid and assist in, and procure, counsel, and advise the preparation and presentation under, and in connection with any matters arising under, the internal revenue laws, of a U.S. individual income tax return, Form 1040, for tax year 2007, which was false and fraudulent as to material matters in that it failed to report income that defendant MOSHE SCHWARTZ had earned from management fees and the sale of real estate, knowing that the Form 1040 was false and fraudulent.

In violation of Title 26, United States Code, Section 7206(2).

COUNT THREE
(False Tax Return)

1. The allegations set forth in in paragraphs 1(a), 1(b) and 5 of Count One of this Information are realleged and incorporated herein.

2. At various times relevant to Count Three of this Information, defendant MOSHE SCHWARTZ:

a. Provided false and fraudulent information concerning his income to a tax return preparer in Union City for tax year 2008; specifically, defendant MOSHE SCHWARTZ falsely represented that his total income for tax year 2008 was approximately \$31,009;

b. Caused the tax return preparer to underreport the amount of income that defendant MOSHE SCHWARTZ earned during tax year 2008, by failing to inform the tax return preparer that he had received additional income from management fees and agreeing with the tax preparer not to disclose additional income from the sale of real estate, resulting in true and correct total income of approximately \$183,400 for tax year 2008; and

c. Authorized the tax return preparer to electronically file the false and fraudulent 2008 U.S. individual income tax return, Form 1040, with the IRS.

3. In concealing his income from the IRS, defendant MOSHE SCHWARTZ deposited checks from management fees and the sale of real estate into his GSC account. Defendant MOSHE SCHWARTZ also

falsely used the identities of an individual named David Schwartz or Gedalya David Schwartz to conceal his income. In particular, beginning in at least 2001, defendant MOSHE SCHWARTZ used those identities to, for instance, buy and sell real estate, obtain a driver's license, open bank accounts, and obtain mortgages on various properties. Moreover, the proceeds from the sale of real estate were disbursed to defendant MOSHE SCHWARTZ in the name of David Schwartz.

4. On or about March 12, 2009, in the District of New Jersey and elsewhere, defendant

MOSHE SCHWARTZ,
a/k/a David Schwartz, a/k/a Gedalya David Schwartz,

did knowingly and willfully aid and assist in, and procure, counsel, and advise the preparation and presentation under, and in connection with any matters arising under, the internal revenue laws, of a U.S. individual income tax return, Form 1040, for tax year 2008, which was false and fraudulent as to material matters in that it failed to report income that defendant MOSHE SCHWARTZ had earned from management fees and the sale of real estate, knowing that the Form 1040 was false and fraudulent.

In violation of Title 26, United States Code, Section 7206(2).

COUNT FOUR
(False Tax Return)

1. The allegations set forth in paragraphs 1(a), 1(b) and 5 of Count One of this Information are realleged and incorporated herein.

2. At various times relevant to Count Four of this Information, defendant MOSHE SCHWARTZ:

a. Signed and caused to be filed with the IRS a 2009 U.S. individual income tax return, Form 1040, which intentionally failed to report certain income for tax year 2009 - namely, income earned from management fees. The Form 1040 contained a written declaration that it was signed under the penalties of perjury;

b. Falsely represented in the Form 1040 that his total income for tax year 2009 was approximately \$34,611, when the true and correct total income for tax year 2009 was approximately \$62,133; and

c. To conceal his income from the IRS, deposited checks from management fees into his GSC account and falsely used the identities of an individual named David Schwartz or Gedalya David Schwartz.

3. On or about October 12, 2010, in the District of New Jersey and elsewhere, defendant

MOSHE SCHWARTZ,
a/k/a David Schwartz, a/k/a Gedalya David Schwartz,

did knowingly and willfully make and subscribe to a U.S. individual

income tax return, Form 1040, for tax year 2009, which was verified by a written declaration that it was made under the penalties of perjury and which defendant MOSHE SCHWARTZ did not believe to be true and correct as to every material matter in that it failed to report income that he had earned from management fees.

In violation of Title 26, United States Code, Section 7206(1).

Paul J. Fishman/roh

PAUL J. FISHMAN
UNITED STATES ATTORNEY

CASE NUMBER: 14-

**United States District Court
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UNITED STATES OF AMERICA

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INFORMATION FOR

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PAUL J. FISHMAN
UNITED STATES ATTORNEY, NEWARK, NEW JERSEY

MAUREEN NAKLY
ASSISTANT U.S. ATTORNEY
NEWARK, NEW JERSEY
973-645-2723
